IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

Crl.MC.No. 2073 of 2007()

(C.C. NO. 521/1999 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, MUVATTUPUZHA)

PETITIONER:

G.BHASKARAN NAIR, CHEERANKAVIL HOUSE,
MENMADANGUKARA, ARAKUZHA VILLAGE.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI. B. RENJITH MARAR,

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. V.M.MATHAI, S/O.MATHAI,
VETTIANKKEL HOUSE, MENMADANGUKARA,
ARAKUZHA VILLAGE.

BY ADV. SRI. M.S. BREEZ, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2073 Of 2007

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Dated this the 28th day of June, 2007

ORDER

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. This Court in revision modified the order and the sentence was reduced to imprisonment till rising of court. A further direction was issued that the petitioner must pay an amount of Rs.1,95,000/- as compensation and in default to undergo S.I for a period of five days. The petitioner was directed to appear before the learned Magistrate on 6.12.04.

2. The petitioner has not appeared till now. He now came before this Court with a prayer that he may be granted one months time to make the payment.

3. I find no merit in the prayer. The petition deserves to be dismissed. The position has been made crystal clear in **Girish v. Muthoot Capital Service (P) Ltd.** [2007(1) KLT 16]. that if the amount is paid, the default sentence cannot be executed. In these circumstances, I find no reason to invoke the powers under Section 482 Cr.P.C.

4. This Criminal Miscellaneous Case is accordingly dismissed but with the specific observation - that if payment of compensation is shown to have been made, there can be no question of execution of the default sentence by the learned Magistrate .

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE